

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Human Services (Mental Health
5 and Developmental Disabilities) Law of the Civil
6 Administrative Code of Illinois is amended by adding Section
7 1710-125 as follows:

8 (20 ILCS 1710/1710-125 new)

9 Sec. 1710-125. Re-entry services program. The Department
10 of Human Services shall establish a re-entry services program
11 to assist persons wrongfully imprisoned, as defined in Section
12 3-1-2 of the Unified Code of Corrections, in obtaining mental
13 health services, including services for post-traumatic stress,
14 at an agreed-upon mental health facility at no charge. The
15 Department of Human Services shall promulgate rules, no later
16 than July 1, 2011, establishing the eligibility of wrongfully
17 imprisoned persons for the Department's re-entry services
18 program.

19 Section 10. The Unified Code of Corrections is amended by
20 changing Sections 3-1-2 and 3-14-1 as follows:

21 (730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

1 Sec. 3-1-2. Definitions.

2 (a) "Chief Administrative Officer" means the person
3 designated by the Director to exercise the powers and duties of
4 the Department of Corrections in regard to committed persons
5 within a correctional institution or facility, and includes the
6 superintendent of any juvenile institution or facility.

7 (a-5) "Sex offense" for the purposes of paragraph (16) of
8 subsection (a) of Section 3-3-7, paragraph (10) of subsection
9 (a) of Section 5-6-3, and paragraph (18) of subsection (c) of
10 Section 5-6-3.1 only means:

11 (i) A violation of any of the following Sections of the
12 Criminal Code of 1961: 10-7 (aiding or abetting child
13 abduction under Section 10-5(b)(10)), 10-5(b)(10) (child
14 luring), 11-6 (indecent solicitation of a child), 11-6.5
15 (indecent solicitation of an adult), 11-15.1 (soliciting
16 for a juvenile prostitute), 11-17.1 (keeping a place of
17 juvenile prostitution), 11-18.1 (patronizing a juvenile
18 prostitute), 11-19.1 (juvenile pimping), 11-19.2
19 (exploitation of a child), 11-20.1 (child pornography),
20 12-14.1 (predatory criminal sexual assault of a child), or
21 12-33 (ritualized abuse of a child). An attempt to commit
22 any of these offenses.

23 (ii) A violation of any of the following Sections of
24 the Criminal Code of 1961: 12-13 (criminal sexual assault),
25 12-14 (aggravated criminal sexual assault), 12-16
26 (aggravated criminal sexual abuse), and subsection (a) of

1 Section 12-15 (criminal sexual abuse). An attempt to commit
2 any of these offenses.

3 (iii) A violation of any of the following Sections of
4 the Criminal Code of 1961 when the defendant is not a
5 parent of the victim:

6 10-1 (kidnapping),

7 10-2 (aggravated kidnapping),

8 10-3 (unlawful restraint),

9 10-3.1 (aggravated unlawful restraint).

10 An attempt to commit any of these offenses.

11 (iv) A violation of any former law of this State
12 substantially equivalent to any offense listed in this
13 subsection (a-5).

14 An offense violating federal law or the law of another
15 state that is substantially equivalent to any offense listed in
16 this subsection (a-5) shall constitute a sex offense for the
17 purpose of this subsection (a-5). A finding or adjudication as
18 a sexually dangerous person under any federal law or law of
19 another state that is substantially equivalent to the Sexually
20 Dangerous Persons Act shall constitute an adjudication for a
21 sex offense for the purposes of this subsection (a-5).

22 (b) "Commitment" means a judicially determined placement
23 in the custody of the Department of Corrections on the basis of
24 delinquency or conviction.

25 (c) "Committed Person" is a person committed to the
26 Department, however a committed person shall not be considered

1 to be an employee of the Department of Corrections for any
2 purpose, including eligibility for a pension, benefits, or any
3 other compensation or rights or privileges which may be
4 provided to employees of the Department.

5 (c-5) "Computer scrub software" means any third-party
6 added software, designed to delete information from the
7 computer unit, the hard drive, or other software, which would
8 eliminate and prevent discovery of browser activity, including
9 but not limited to Internet history, address bar or bars, cache
10 or caches, and/or cookies, and which would over-write files in
11 a way so as to make previous computer activity, including but
12 not limited to website access, more difficult to discover.

13 (d) "Correctional Institution or Facility" means any
14 building or part of a building where committed persons are kept
15 in a secured manner.

16 (e) In the case of functions performed before the effective
17 date of this amendatory Act of the 94th General Assembly,
18 "Department" means the Department of Corrections of this State.
19 In the case of functions performed on or after the effective
20 date of this amendatory Act of the 94th General Assembly,
21 "Department" has the meaning ascribed to it in subsection
22 (f-5).

23 (f) In the case of functions performed before the effective
24 date of this amendatory Act of the 94th General Assembly,
25 "Director" means the Director of the Department of Corrections.
26 In the case of functions performed on or after the effective

1 date of this amendatory Act of the 94th General Assembly,
2 "Director" has the meaning ascribed to it in subsection (f-5).

3 (f-5) In the case of functions performed on or after the
4 effective date of this amendatory Act of the 94th General
5 Assembly, references to "Department" or "Director" refer to
6 either the Department of Corrections or the Director of
7 Corrections or to the Department of Juvenile Justice or the
8 Director of Juvenile Justice unless the context is specific to
9 the Department of Juvenile Justice or the Director of Juvenile
10 Justice.

11 (g) "Discharge" means the final termination of a commitment
12 to the Department of Corrections.

13 (h) "Discipline" means the rules and regulations for the
14 maintenance of order and the protection of persons and property
15 within the institutions and facilities of the Department and
16 their enforcement.

17 (i) "Escape" means the intentional and unauthorized
18 absence of a committed person from the custody of the
19 Department.

20 (j) "Furlough" means an authorized leave of absence from
21 the Department of Corrections for a designated purpose and
22 period of time.

23 (k) "Parole" means the conditional and revocable release of
24 a committed person under the supervision of a parole officer.

25 (l) "Prisoner Review Board" means the Board established in
26 Section 3-3-1(a), independent of the Department, to review

1 rules and regulations with respect to good time credits, to
2 hear charges brought by the Department against certain
3 prisoners alleged to have violated Department rules with
4 respect to good time credits, to set release dates for certain
5 prisoners sentenced under the law in effect prior to the
6 effective date of this Amendatory Act of 1977, to hear requests
7 and make recommendations to the Governor with respect to
8 pardon, reprieve or commutation, to set conditions for parole
9 and mandatory supervised release and determine whether
10 violations of those conditions justify revocation of parole or
11 release, and to assume all other functions previously exercised
12 by the Illinois Parole and Pardon Board.

13 (m) Whenever medical treatment, service, counseling, or
14 care is referred to in this Unified Code of Corrections, such
15 term may be construed by the Department or Court, within its
16 discretion, to include treatment, service or counseling by a
17 Christian Science practitioner or nursing care appropriate
18 therewith whenever request therefor is made by a person subject
19 to the provisions of this Act.

20 (n) "Victim" shall have the meaning ascribed to it in
21 subsection (a) of Section 3 of the Bill of Rights for Victims
22 and Witnesses of Violent Crime Act.

23 (o) "Wrongfully imprisoned person" means a person who has
24 been discharged from a prison of this State and has received:

25 (1) a pardon from the Governor stating that such pardon
26 is issued on the ground of innocence of the crime for which

1 he or she was imprisoned; or

2 (2) a certificate of innocence from the Circuit Court
3 as provided in Section 2-702 of the Code of Civil
4 Procedure.

5 (Source: P.A. 96-362, eff. 1-1-10; 96-710, eff. 1-1-10;
6 96-1000, eff. 7-2-10.)

7 (730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

8 Sec. 3-14-1. Release from the Institution.

9 (a) Upon release of a person on parole, mandatory release,
10 final discharge or pardon the Department shall return all
11 property held for him, provide him with suitable clothing and
12 procure necessary transportation for him to his designated
13 place of residence and employment. It may provide such person
14 with a grant of money for travel and expenses which may be paid
15 in installments. The amount of the money grant shall be
16 determined by the Department.

17 (a-1) The Department shall, before a wrongfully imprisoned
18 person, as defined in Section 3-1-2 of this Code, is discharged
19 from the Department, provide him or her with any documents
20 necessary after discharge, including an identification card
21 under subsection (e) of this Section.

22 (a-2) The Department of Corrections may establish and
23 maintain, in any institution it administers, revolving funds to
24 be known as "Travel and Allowances Revolving Funds". These
25 revolving funds shall be used for advancing travel and expense

1 allowances to committed, paroled, and discharged prisoners.
2 The moneys paid into such revolving funds shall be from
3 appropriations to the Department for Committed, Paroled, and
4 Discharged Prisoners.

5 (b) (Blank).

6 (c) Except as otherwise provided in this Code, the
7 Department shall establish procedures to provide written
8 notification of any release of any person who has been
9 convicted of a felony to the State's Attorney and sheriff of
10 the county from which the offender was committed, and the
11 State's Attorney and sheriff of the county into which the
12 offender is to be paroled or released. Except as otherwise
13 provided in this Code, the Department shall establish
14 procedures to provide written notification to the proper law
15 enforcement agency for any municipality of any release of any
16 person who has been convicted of a felony if the arrest of the
17 offender or the commission of the offense took place in the
18 municipality, if the offender is to be paroled or released into
19 the municipality, or if the offender resided in the
20 municipality at the time of the commission of the offense. If a
21 person convicted of a felony who is in the custody of the
22 Department of Corrections or on parole or mandatory supervised
23 release informs the Department that he or she has resided,
24 resides, or will reside at an address that is a housing
25 facility owned, managed, operated, or leased by a public
26 housing agency, the Department must send written notification

1 of that information to the public housing agency that owns,
2 manages, operates, or leases the housing facility. The written
3 notification shall, when possible, be given at least 14 days
4 before release of the person from custody, or as soon
5 thereafter as possible.

6 (c-1) (Blank).

7 (c-5) If a person on parole or mandatory supervised release
8 becomes a resident of a facility licensed or regulated by the
9 Department of Public Health, the Illinois Department of Public
10 Aid, or the Illinois Department of Human Services, the
11 Department of Corrections shall provide copies of the following
12 information to the appropriate licensing or regulating
13 Department and the licensed or regulated facility where the
14 person becomes a resident:

15 (1) The mittimus and any pre-sentence investigation
16 reports.

17 (2) The social evaluation prepared pursuant to Section
18 3-8-2.

19 (3) Any pre-release evaluation conducted pursuant to
20 subsection (j) of Section 3-6-2.

21 (4) Reports of disciplinary infractions and
22 dispositions.

23 (5) Any parole plan, including orders issued by the
24 Prisoner Review Board, and any violation reports and
25 dispositions.

26 (6) The name and contact information for the assigned

1 parole agent and parole supervisor.

2 This information shall be provided within 3 days of the
3 person becoming a resident of the facility.

4 (c-10) If a person on parole or mandatory supervised
5 release becomes a resident of a facility licensed or regulated
6 by the Department of Public Health, the Illinois Department of
7 Public Aid, or the Illinois Department of Human Services, the
8 Department of Corrections shall provide written notification
9 of such residence to the following:

10 (1) The Prisoner Review Board.

11 (2) The chief of police and sheriff in the municipality
12 and county in which the licensed facility is located.

13 The notification shall be provided within 3 days of the
14 person becoming a resident of the facility.

15 (d) Upon the release of a committed person on parole,
16 mandatory supervised release, final discharge or pardon, the
17 Department shall provide such person with information
18 concerning programs and services of the Illinois Department of
19 Public Health to ascertain whether such person has been exposed
20 to the human immunodeficiency virus (HIV) or any identified
21 causative agent of Acquired Immunodeficiency Syndrome (AIDS).

22 (e) Upon the release of a committed person on parole,
23 mandatory supervised release, final discharge, ~~or~~ pardon, or
24 who has been wrongfully imprisoned, the Department shall
25 provide the person who has met the criteria established by the
26 Department with an identification card identifying the person

1 as being on parole, mandatory supervised release, final
2 discharge, ~~or~~ pardon, or wrongfully imprisoned, as the case may
3 be. The Department, in consultation with the Office of the
4 Secretary of State, shall prescribe the form of the
5 identification card, which may be similar to the form of the
6 standard Illinois Identification Card. The Department shall
7 inform the committed person that he or she may present the
8 identification card to the Office of the Secretary of State
9 upon application for a standard Illinois Identification Card in
10 accordance with the Illinois Identification Card Act. The
11 Department shall require the committed person to pay a \$1 fee
12 for the identification card.

13 For purposes of a committed person receiving an
14 identification card issued by the Department under this
15 subsection, the Department shall establish criteria that the
16 committed person must meet before the card is issued. It is the
17 sole responsibility of the committed person requesting the
18 identification card issued by the Department to meet the
19 established criteria. The person's failure to meet the criteria
20 is sufficient reason to deny the committed person the
21 identification card. An identification card issued by the
22 Department under this subsection shall be valid for a period of
23 time not to exceed 30 calendar days from the date the card is
24 issued. The Department shall not be held civilly or criminally
25 liable to anyone because of any act of any person utilizing a
26 card issued by the Department under this subsection.

1 The Department shall adopt rules governing the issuance of
2 identification cards to committed persons being released on
3 parole, mandatory supervised release, final discharge, or
4 pardon.

5 (Source: P.A. 94-163, eff. 7-11-05.)

6 Section 15. The Code of Civil Procedure is amended by
7 changing Section 2-702 as follows:

8 (735 ILCS 5/2-702)

9 Sec. 2-702. Petition for a certificate of innocence that
10 the petitioner was innocent of all offenses for which he or she
11 was incarcerated.

12 (a) The General Assembly finds and declares that innocent
13 persons who have been wrongly convicted of crimes in Illinois
14 and subsequently imprisoned have been frustrated in seeking
15 legal redress due to a variety of substantive and technical
16 obstacles in the law and that such persons should have an
17 available avenue to obtain a finding of innocence so that they
18 may obtain relief through a petition in the Court of Claims.
19 The General Assembly further finds misleading the current legal
20 nomenclature which compels an innocent person to seek a pardon
21 for being wrongfully incarcerated. It is the intent of the
22 General Assembly that the court, in exercising its discretion
23 as permitted by law regarding the weight and admissibility of
24 evidence submitted pursuant to this Section, shall, in the

1 interest of justice, give due consideration to difficulties of
2 proof caused by the passage of time, the death or
3 unavailability of witnesses, the destruction of evidence or
4 other factors not caused by such persons or those acting on
5 their behalf.

6 (b) Any person convicted and subsequently imprisoned for
7 one or more felonies by the State of Illinois which he or she
8 did not commit may, under the conditions hereinafter provided,
9 file a petition for certificate of innocence in the circuit
10 court of the county in which the person was convicted. The
11 petition shall request a certificate of innocence finding that
12 the petitioner was innocent of all offenses for which he or she
13 was incarcerated.

14 (c) In order to present the claim for certificate of
15 innocence of an unjust conviction and imprisonment, the
16 petitioner must attach to his or her petition documentation
17 demonstrating that:

18 (1) he or she has been convicted of one or more
19 felonies by the State of Illinois and subsequently
20 sentenced to a term of imprisonment, and has served all or
21 any part of the sentence; and

22 (2) his or her judgment of conviction was reversed or
23 vacated, and the indictment or information dismissed or, if
24 a new trial was ordered, either he or she was found not
25 guilty at the new trial or he or she was not retried and
26 the indictment or information dismissed; or the statute, or

1 application thereof, on which the indictment or
2 information was based violated the Constitution of the
3 United States or the State of Illinois; and

4 (3) his or her claim is not time barred by the
5 provisions of subsection (i) of this Section.

6 (d) The petition shall state facts in sufficient detail to
7 permit the court to find that the petitioner is likely to
8 succeed at trial in proving that the petitioner is innocent of
9 the offenses charged in the indictment or information or his or
10 her acts or omissions charged in the indictment or information
11 did not constitute a felony or misdemeanor against the State of
12 Illinois, and the petitioner did not by his or her own conduct
13 voluntarily cause or bring about his or her conviction. The
14 petition shall be verified by the petitioner.

15 (e) A copy of the petition shall be served on the Attorney
16 General and the State's Attorney of the county where the
17 conviction was had. The Attorney General and the State's
18 Attorney of the county where the conviction was had shall have
19 the right to intervene as parties.

20 (f) In any hearing seeking a certificate of innocence, the
21 court may take judicial notice of prior sworn testimony or
22 evidence admitted in the criminal proceedings related to the
23 convictions which resulted in the alleged wrongful
24 incarceration, if the petitioner was either represented by
25 counsel at such prior proceedings or the right to counsel was
26 knowingly waived.

1 (g) In order to obtain a certificate of innocence the
2 petitioner must prove by a preponderance of evidence that:

3 (1) the petitioner was convicted of one or more
4 felonies by the State of Illinois and subsequently
5 sentenced to a term of imprisonment, and has served all or
6 any part of the sentence;

7 (2) (A) the judgment of conviction was reversed or
8 vacated, and the indictment or information dismissed or, if
9 a new trial was ordered, either the petitioner was found
10 not guilty at the new trial or the petitioner was not
11 retried and the indictment or information dismissed; or (B)
12 the statute, or application thereof, on which the
13 indictment or information was based violated the
14 Constitution of the United States or the State of Illinois;

15 (3) the petitioner is innocent of the offenses charged
16 in the indictment or information or his or her acts or
17 omissions charged in the indictment or information did not
18 constitute a felony or misdemeanor against the State; and

19 (4) the petitioner did not by his or her own conduct
20 voluntarily cause or bring about his or her conviction.

21 (h) If the court finds that the petitioner is entitled to a
22 judgment, it shall enter a certificate of innocence finding
23 that the petitioner was innocent of all offenses for which he
24 or she was incarcerated. Upon entry of the certificate of
25 innocence or pardon from the Governor stating that such pardon
26 was issued on the ground of innocence of the crime for which he

1 or she was imprisoned, (1) the clerk of the court shall
2 transmit a copy of the certificate of innocence to the clerk of
3 the Court of Claims, together with the claimant's current
4 address; and (2) the court shall enter an order expunging or
5 sealing the record of arrest from the official records of the
6 arresting authority and order that the records of the clerk of
7 the circuit court and Department of State Police be sealed
8 until further order of the court upon good cause shown or as
9 otherwise provided herein, and the name of the defendant
10 obliterated from the official index requested to be kept by the
11 circuit court clerk under Section 16 of the Clerks of Courts
12 Act in connection with the arrest and conviction for the
13 offense but the order shall not affect any index issued by the
14 circuit court clerk before the entry of the order.

15 (i) Any person seeking a certificate of innocence under
16 this Section based on the dismissal of an indictment or
17 information or acquittal that occurred before the effective
18 date of this amendatory Act of the 95th General Assembly shall
19 file his or her petition within 2 years after the effective
20 date of this amendatory Act of the 95th General Assembly. Any
21 person seeking a certificate of innocence under this Section
22 based on the dismissal of an indictment or information or
23 acquittal that occurred on or after the effective date of this
24 amendatory Act of the 95th General Assembly shall file his or
25 her petition within 2 years after the dismissal.

26 (j) The decision to grant or deny a certificate of

1 innocence shall be binding only with respect to claims filed in
2 the Court of Claims and shall not have a res judicata effect on
3 any other proceedings.

4 (Source: P.A. 95-970, eff. 9-22-08.)

5 Section 99. Effective date. This Act takes effect July 1,
6 2011.